

**OPEN MEETING****MEMORANDUM**

TO: THE COMMISSION

FROM: Utilities Division

DATE: January 8, 2021

RE: IN THE MATTER OF THE APPLICATION OF ARIZONA PUBLIC SERVICE  
COMPANY FOR APPROVAL OF ELECTRIC SERVICE CONTRACT RATE  
SCHEDULE WITH NIKOLA CORPORATION  
(DOCKET NO. E-01345A-20-0367)

**INTRODUCTION**

Enclosed are the Commission Staff's memorandum and proposed order for the Application of Arizona Public Service Company for Approval of Electric Service Contract Rate Schedule with Nikola Corporation (Docket No. E-01345A-20-0367). This is only a Staff recommendation to the Commission; it has not yet become an order of the Commission. The Commission can decide to accept, amend or reject Staff's proposed order.

Any party who wishes to comment on this matter may appear telephonically before the Commission at its regular open meeting scheduled for **January 12, 2021, at 10:00 a.m.** and **January 13, 2021, at 10:00 a.m.** or may file written comments in Docket Control.

If you have any questions about this matter, please contact Candrea Allen of our Staff at (602) 364-0235, or Elijah Abinah, Director, at (602) 542-6935.

**BACKGROUND**

On December 11, 2020, Arizona Public Service Company ("APS" or "Company") filed an application with the Arizona Corporation Commission ("Commission") for approval of an Electric Service Agreement ("ESA") rate schedule with Nikola Corporation ("Nikola"). On December 18, 2020, Nikola filed comments in support of the proposed ESA in the docket. On December 22, 2020, APS filed a waiver of the timeclock to process the application.



Nikola operates as an integrated zero emissions transportation systems provider. Nikola designs and manufactures battery-electric and hydrogen-electric vehicles, electric vehicle drivetrains, vehicle components, energy storage systems, and hydrogen fueling station infrastructure. The company also develops electric vehicle solutions for military and outdoor recreational applications.<sup>1</sup> Nikola is based in Phoenix, Arizona.

Pursuant to Decision No. 73183 (May 24, 2012), the Commission approved a Settlement Agreement which authorized APS to “pursue economic development opportunities through the use of Commission-approved special contracts” such as the proposed special contract.

APS states that this ESA is an important means of economic development as Nikola anticipates deploying hundreds of millions of dollars in capital to construct its hydrogen facilities in Arizona. In addition, Nikola expects to employ a diverse workforce at its facilities. Further, APS states that the deployment of the hydrogen facilities will have a positive impact on the environment by reducing pollution and the emission of NO<sub>x</sub>, SO<sub>x</sub>, CO<sub>2</sub>, and small fine particulate matter by facilitating the conversion of heavy-duty trucks from diesel fuel to hydrogen.

## APPLICATION

According to the application, Nikola intends to establish hydrogen production, processing, and fueling stations and anticipates requiring a very high load factor of above 92 percent. APS states that customers with high loads provide operational and other economic benefits to the distribution system by helping reduce the overall cost for the Company to serve all its customers. This aids in flattening the overall load profile and allows APS to operate its generation fleet in a more optimal manner while spreading fixed costs over a greater volume of energy, reducing the per kilowatt hour (“kWh”) costs to APS customers.

In its application, APS states that Nikola’s planned hydrogen facilities are expected to be flexible loads that will be responsive to demand response dispatch instructions, similar to a microgrid or battery energy storage facility, unlike most other high load factor customers. Under the contract, Nikola will receive a capacity credit for the unbundled generation capacity rate component. In addition, the Nikola facilities will be able to self-curtail under the contract rate. The contract rate will be applicable for Nikola’s hydrogen production loads and its hydrogen refueling stations across APS’s service area.

Until Nikola’s facilities reach the scale required to qualify for service under the ESA rate, APS will provide service under the applicable E-32 or other general service, rate schedule without any discount or special provisions. APS has indicated that it anticipates Nikola will take service under the ESA within the next four years<sup>2</sup>.

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<sup>1</sup> Yahoo! Finance. (2020). <https://finance.yahoo.com/quote/NKLA/profile?p=NKLA>.

<sup>2</sup> APS did its analysis based upon present day assumptions since the contract will not go into effect for approximately 4 years.



## MARGINAL COSTS

Staff has reviewed the proposed rates and charges included in the proposed ESA and the projected energy and capacity costs and credits of serving Nikola. Staff has reviewed the information from APS related to its marginal costs and has determined that the rates and charges included in the proposed ESA will cover APS's marginal costs during the contract period. APS has indicated that the economic development credit was not part of this review. Recovery of the Economic Development credit will be determined in the context of a future rate case.

## FAIR VALUE IMPLICATIONS

Staff has reviewed the application in terms of whether there are fair value implications. In Decision No. 76295, (August 18, 2017), the Commission determined the fair value of the APS jurisdictional rate base to be \$9,990,561,000. That determination is appropriate for the purposes of this analysis. Compared to APS' total revenues, any revenue impact from this ESA would be *de minimus*, and any impact on APS's fair value rate base and rate of return would also be *de minimus*.

## RECOMMENDATIONS

Given the level of Nikola's anticipated investment in its facilities and the effect on local communities, Staff believes that the proposed ESA provides an economic development opportunity, as authorized in Decision No. 73183. In addition, Nikola, as an extra high load factor ("XHLF") customer with interruptible capability, provides benefits to the rest of the APS ratepayers. Pursuant to an executed Protective Agreement, Staff has reviewed the unredacted ESA which contains competitively confidential information. Because the rates included in the proposed ESA are based more on the actual cost of serving Nikola, Staff believes the proposed ESA is more appropriate for Nikola than a standard tariff offered by APS. APS has indicated that approval of the proposed ESA will have no impact on the rates and charges of APS's other customer classes. Therefore, Staff recommends approval of the proposed ESA between APS and Nikola. Staff recommends that language be added in the Decision that specifies that Commission approval does not guarantee any future ratemaking treatment of the agreement with Nikola.



Elijah O. Abinah  
Director  
Utilities Division

EOA:CLA:jn\MAS

ORIGINATOR: Candrea Allen



THE COMMISSION

January 8, 2021

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On this 8th day of January 2020, the foregoing document was filed with Docket Control as a Utilities Division Memorandum & Proposed Order, and copies of the foregoing were mailed on behalf of the Utilities Division to the following who have not consented to email service. On this date or as soon as possible thereafter, the Commission's eDocket program will automatically email a link to the foregoing to the following who have consented to email service.

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**Consented to Service by Email**

By:



Jackie Neese  
Executive Assistant

1                               **BEFORE THE ARIZONA CORPORATION COMMISSION**

2       LEA MÁRQUEZ PETERSON

          Chairwoman

3       SANDRA D. KENNEDY

          Commissioner

4       JUSTIN OLSON

          Commissioner

5       ANNA TOVAR

          Commissioner

6       JIM O'CONNOR

          Commissioner

7       IN THE MATTER OF THE APPLICATION)  
8       OF ARIZONA PUBLIC SERVICE)  
9       COMPANY FOR APPROVAL OF)  
10      ELECTRIC SERVICE CONTRACT RATE)  
11      SCHEDULE WITH NIKOLA)  
12      CORPORATION)

DOCKET NO. E-01345A-20-0367

DECISION NO. \_\_\_\_\_

ORDER

13      Open Meeting  
14      January 12 and 13, 2021  
15      Phoenix, Arizona

16      BY THE COMMISSION:

17                               FINDINGS OF FACT

18           1.       Arizona Public Service Company ("APS" or "Company") is certificated to provide  
19      electric service as a public service corporation in the State of Arizona.

20      **Background**

21           2.       On December 11, 2020, APS filed an application with the Arizona Corporation  
22      Commission ("Commission") for approval of an Electric Service Agreement ("ESA") rate schedule  
23      with Nikola Corporation ("Nikola"). On December 18, 2020, Nikola filed comments in support of  
24      the proposed ESA in the docket. On December 22, 2020, APS filed a waiver of the timeclock to  
25      process the application.

26           3.       Nikola operates as an integrated zero emissions transportation systems provider.  
27      Nikola designs and manufactures battery-electric and hydrogen-electric vehicles, electric vehicle  
28      drivetrains, vehicle components, energy storage systems, and hydrogen fueling station



1 infrastructure. The company also develops electric vehicle solutions for military and outdoor  
2 recreational applications.<sup>1</sup> Nikola is based in Phoenix, Arizona.

3 4. Pursuant to Decision No. 73183 (May 24, 2012), the Commission approved a  
4 Settlement Agreement which authorized APS to “pursue economic development opportunities  
5 through the use of Commission-approved special contracts” such as the proposed special contract.

6 5. APS states that this ESA is an important means of economic development as Nikola  
7 anticipates deploying hundreds of millions of dollars in capital to construct its hydrogen facilities in  
8 Arizona. In addition, Nikola expects to employ a diverse workforce at its facilities. Further, APS  
9 states that the deployment of the hydrogen facilities will have a positive impact on the environment  
10 by reducing pollution and the emission of NOx, SOx, CO2, and small fine particulate matter by  
11 facilitating the conversion of heavy-duty trucks from diesel fuel to hydrogen.

## 12 **Application**

13 6. According to the application, Nikola intends to establish hydrogen production,  
14 processing, and fueling stations and anticipates requiring a very high load factor of above 92 percent.  
15 APS states that customers with high loads provide operational and other economic benefits to the  
16 distribution system by helping reduce the overall cost for the Company to serve all its customers.  
17 This aids in flattening the overall load profile and allows APS to operate its generation fleet in a  
18 more optimal manner while spreading fixed costs over a greater volume of energy, reducing the per  
19 kilowatt hour (“kWh”) costs to APS customers.

20 7. In its application, APS states that Nikola’s planned hydrogen facilities are expected  
21 to be flexible loads that will be responsive to demand response dispatch instructions, similar to a  
22 microgrid or battery energy storage facility, unlike most other high load factor customers. Under  
23 the contract, Nikola will receive a capacity credit for the unbundled generation capacity rate  
24 component. In addition, the Nikola facilities will be able to self-curtail under the contract rate. The  
25 contract rate will be applicable for Nikola’s hydrogen production loads and its hydrogen refueling  
26 stations across APS’s service area.

27  
28 <sup>1</sup> Yahoo! Finance. (2020). <https://finance.yahoo.com/quote/NKLA/profile?p=NKLA>.

8. Until Nikola's facilities reach the scale required to qualify for service under the ESA rate, APS will provide service under the applicable E-32 or other general service, rate schedule without any discount or special provisions. APS has indicated that it anticipates Nikola will take service under the ESA within the next four years<sup>2</sup>.

#### **Marginal Costs**

9. Staff has reviewed the proposed rates and charges included in the proposed ESA and the projected energy and capacity costs and credits of serving Nikola. Staff has reviewed the information from APS related to its marginal costs and has determined that the rates and charges included in the proposed ESA will cover APS's marginal costs during the contract period. APS has indicated that the economic development credit was not part of this review. Recovery of the Economic Development credit will be determined in the context of a future rate case.

#### **Fair Value Implications**

10. Staff has reviewed the application in terms of whether there are fair value implications. In Decision No. 76295, (August 18, 2017), the Commission determined the fair value of the APS jurisdictional rate base to be \$9,990,561,000. That determination is appropriate for the purposes of this analysis. Compared to APS' total revenues, any revenue impact from this ESA would be de minimus, and any impact on APS's fair value rate base and return would also be de minimus.

#### **Recommendations**

11. Given the level of Nikola's anticipated investment in its facilities and the effect on local communities. Staff believes that the proposed ESA provides an economic development opportunity, as authorized in Decision No. 73183. In addition, Nikola, as an extra high load factor ("XHLF") customer with interruptible capability, provides benefits to the rest of the APS ratepayers. Pursuant to an executed Protective Agreement, Staff has reviewed the unredacted ESA which contains competitively confidential information. Because the rates included in the proposed ESA

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<sup>2</sup> APS did its analysis based upon present day assumptions since the contract will not go into effect for approximately 4 years.

1 are based more on the actual cost of serving Nikola, Staff believes the proposed ESA is more  
2 appropriate for Nikola than a standard tariff offered by APS. APS has indicated that approval of the  
3 proposed ESA will have no impact on the rates and charges of APS's other customer classes.  
4 Therefore, Staff recommends approval of the proposed ESA between APS and Nikola. Staff  
5 recommends that language be added in the Decision that specifies that Commission approval does  
6 not guarantee any future ratemaking treatment of the agreement with Nikola.

7 CONCLUSIONS OF LAW

8 1. Arizona Public Service Company is a public service corporation within the meaning  
9 of Article XV of the Arizona Constitution and Arizona Revised Statute §§ 40-250 and 40-251.

10 2. The Commission has jurisdiction over Arizona Public Service Company and the  
11 subject matter of the Application.

12 3. The Commission, having reviewed Staff's memorandum dated January 8, 2021,  
13 concludes that it is in the public interest to approve the corrected tariff language as discussed herein.

14 ORDER

15 IT IS THEREFORE ORDERED that the Arizona Public Service Company Electric Service  
16 Agreement with Nikola Corporation is hereby approved, as discussed herein.

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1 IT IS FURTHER ORDERED that approval of the Electric Service Agreement does not  
2 guarantee any future ratemaking treatment of the agreement with Nikola, at this time.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.  
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5 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**  
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7  
8 CHAIRWOMAN MÁRQUEZ PETERSON

COMMISSIONER KENNEDY

9  
10 COMMISSIONER OLSON

COMMISSIONER TOVAR

COMMISSIONER O'CONNOR

11  
12 IN WITNESS WHEREOF, I, MATTHEW J. NEUBERT,  
13 Executive Director of the Arizona Corporation Commission,  
14 have hereunto, set my hand and caused the official seal of this  
15 Commission to be affixed at the Capitol, in the City of  
16 Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

17 \_\_\_\_\_  
18 MATTHEW J. NEUBERT  
EXECUTIVE DIRECTOR

19 DISSENT: \_\_\_\_\_  
20

21 DISSENT: \_\_\_\_\_  
22

23 EOA:CLA:jn/MAS  
24  
25  
26  
27  
28

1 Arizona Public Service Company  
2 Docket No. (E-01345A-20-0367)

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14 **Consented to Service by Email**